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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,  
8 Plaintiff,

9 -vs-

10 LARRY DEAN SMITH,

11 Defendant.

NO. CR-01-0084-WFN

ORDER

12  
13 A supervised release violation hearing was held January 30, 2006. The Defendant, who  
14 is in custody, was present and represented by Amy Rubin; Assistant United States Attorney  
15 Thomas Hopkins represented the Government; United States Probation Officer Richard Law  
16 was also present.

17 Pending before the Court were Violations 1-7, which alleged that Mr. Smith used  
18 alcohol; committed several state or local offenses; failed to report for substance abuse  
19 counseling and testing; failed to notify the probation officer of a change in residence; and  
20 failed to submit a timely monthly report. At the hearing, the Defendant admitted to five of  
21 the violations. The Court heard from counsel and Mr. Smith, and determined that revocation  
22 was appropriate.

23 Following the January 30, 2006 hearing, the Court became aware that the violation  
24 Petitions were filed in Case No. CR-01-0084-WFN, but should have been filed in Case No.  
25 CR-97-0193-WFN, which is the cause number where Mr. Smith is still under supervised  
26 release. Defense counsel also filed a Motion to Reconsider the Sentence imposed in CR-01-

0084; however, the Motion was filed prior to counsel being notified of the filing error and the fact that a *de novo* revocation hearing would be scheduled in the correct case number. Accordingly,

**IT IS ORDERED** that:

1. All findings made by the Court in CR-01-0084-WFN are **VACATED**.
2. Defendant's Motion for Reconsideration, filed January 31, 2006, **Ct. Rec. 66**, is **DENIED AS MOOT**. Defense counsel was provided with the opportunity to raise all her sentencing arguments at the February 9, 2006 revocation hearing in Case No. CR-97-0193-WFN.

The District Court Executive is directed to file this Order and provide copies to counsel **AND TO** United States Probation Officer Richard Law.

**DATED** this 9th day of February, 2006.

s/ Wm. Fremming Nielsen  
WM. FREMMING NIELSEN  
SENIOR UNITED STATES DISTRICT JUDGE

02-09